



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0321]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 31 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for up to 2 years in interstate commerce.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2015-0321 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov> as described in the system records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, or via email at fmcsamedical@dot.gov, or by letter

to FMCSA, Room W64-113, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statutes allow the Agency to renew exemptions at the end of the 2-year period. The 31 individuals listed in this notice have requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. The advisory criteria found in Appendix A to 49 CFR 391.41, states that

If an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of medical examiners misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner based on the physical qualification standards and medical best practices.

II. Qualifications of Applicants

Travis Earl Baird

Mr. Baird is a 28 year-old driver in Oklahoma. He has a history of a seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with

the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Baird receiving an exemption.

Robert P. Brackett

Mr. Brackett is a 60 year-old class A CDL holder in Maine. He has a history of a single unprovoked seizure in 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Brackett receiving an exemption.

Brian R. Checkley, Jr.

Mr. Checkley is a 36 year-old driver in New Jersey. He has a history of epilepsy and has remained seizure free since 2007. He underwent a right anterior temporal lobectomy in 2007 and has not taken anti-seizure medication since August 2011. His physician states that he is supportive of Mr. Checkley receiving an exemption.

James Clark

Mr. Clark is a 32 year-old driver in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Clark receiving an exemption.

George J. Conte

Mr. Conte is a 46 year-old driver in Connecticut. He has a history of epilepsy and has remained seizure free since 2014. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Conte receiving an exemption.

Dean W. Drury

Mr. Drury is a 55 year-old driver in Illinois. He had one seizure following surgery in February 2015. He currently takes anti-seizure medication but anticipates being weaned off of his this medication in the future. His physician states that he is supportive of Mr. Drury receiving an exemption.

Kelly Frederick

Mr. Frederick is a 46 year-old driver in Louisiana. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Frederick receiving an exemption.

William Gessner

Mr. Gessner is a 48 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Gessner receiving an exemption.

Jerry L. Henderson

Mr. Henderson is a 56 year-old class A CDL holder in Indiana. He has a history of a seizure disorder and has remained seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Henderson receiving an exemption.

Clarence D. Jones

Mr. Jones is a 73 year-old class A CDL holder in Virginia. He has a history of a seizure disorder and has remained seizure free since 1987. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Jones receiving an exemption.

Preston Romaine Kanagy

Mr. Kanagy is a 35 year-old class A CDL holder in Tennessee. He has a history of epilepsy and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since 2001. His physician states that he is supportive of Mr. Kanagy receiving an exemption.

James Randall King

Mr. King is a 49 year-old driver in Connecticut. He has a history of a seizure disorder and has remained seizure free since 2007. He has not taken anti-seizure medication since 1988. His physician states that he is supportive of Mr. King receiving an exemption.

Scott A. Lowe

Mr. Lowe is a 58 year-old class A CDL holder in Massachusetts. He has a history of a seizure disorder and has remained seizure free since 1983. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Lowe receiving an exemption.

Ronald Alan Nagy, Jr.

Mr. Nagy is a 29 year-old driver in Michigan. He underwent a craniotomy for resection of an astrocytoma in June 2015. He takes anti-seizure medication with the

dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Nagy receiving an exemption.

Roger Lynn Neal

Mr. Neal is a 55 year-old class A CDL holder in Missouri. He has a history of a seizure disorder and has remained seizure free since 1985. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Neal receiving an exemption.

Thomas Victor Oconnor

Mr. Oconnor is a 46 year-old class A CDL holder in Florida. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Oconnor receiving an exemption.

Nicholas Ramirez

Mr. Ramirez is a 37 year-old driver in California. He has a history of a seizure disorder and has remained seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Ramirez receiving an exemption.

Scott William Reaves

Mr. Reaves is a 52 year-old driver in Texas. He has a history of a seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Reaves receiving an exemption.

Steven Shirley

Mr. Shirley is a 54 year-old driver in Utah. He has a history of epilepsy and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same for two years. His physician states that he is supportive of Mr. Shirley receiving an exemption.

Tory J. Shuler

Mr. Shuler is a 47 year-old driver in New York. He has a history of a seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Shuler receiving an exemption.

Randall T. Slavik

Mr. Slavik is a 70 year-old class A CDL holder in Missouri. He has a history of a single seizure in 2015. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Slavik receiving an exemption.

Michael Spinelli, IV

Mr. Spinelli is a 41 year-old class C CDL holder in New Jersey. He has a history of seizure after being diagnosed with a brain tumor in 2007. He remained seizure free until June 2015 when he suffered a seizure after taking a generic form of his anti-seizure medication. He currently takes the brand name form of this anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Spinelli receiving an exemption.

Matthew Jack Staley

Mr. Staley is a 43 year-old driver in Colorado. He has a history of epilepsy and has remained seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Staley receiving an exemption.

Michael A. Sypolt

Mr. Sypolt is a 53 year-old class A CDL holder in West Virginia. He has a history of a seizure disorder and has remained seizure free since 1980. He takes anti-seizure medication with the dosage and frequency remaining the same for two years. His physician states that he is supportive of Mr. Sypolt receiving an exemption.

Daisy Tapia

Ms. Tapia is a 59 year-old class B CDL holder in New York. She has a history of a single provoked seizure in April 2012, followed by a resection of a benign meningioma. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. Her physician states that he is supportive of Ms. Tapia receiving an exemption.

Peter M. Thompson

Mr. Thompson is a 23 year-old class A CDL holder in Florida. He has a history of juvenile epilepsy and has remained seizure free since 2003. He does not take anti-seizure medication. His physician states that he is supportive of Mr. Thompson receiving an exemption.

Paul Richard Trombley

Mr. Trombley is a 41 year-old class A CDL holder in Michigan. He has a history of a seizure disorder and has remained seizure free since 2014. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Trombley receiving an exemption.

Mohammad S. Warrad

Mr. Warrad is a 55 year-old driver in Iowa. He has a history of a seizure disorder and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since March 2014. His physician states that he is supportive of Mr. Warrad receiving an exemption.

Richard James Wenner

Mr. Wenner is a 50 year-old class A CDL holder in Minnesota. He has a history of a seizure disorder and has remained seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same that time. His physician states that he is supportive of Mr. Wenner receiving an exemption.

John Charles Wolfe

Mr. Wolfe is a 55 year-old class A CDL holder in Pennsylvania. He has a history of epilepsy and has remained seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same that time. His physician states that he is supportive of Mr. Wolfe receiving an exemption.

Dennis Raymond Zayic

Mr. Zayic is a 63 year-old driver in Minnesota. He has a history of a seizure following the resection of a benign meningioma in 1995. He takes anti-seizure

medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Zayic receiving an exemption.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number “FMCSA-2015-0321” and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period.

FMCSA may issue a final determination any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2015-0321 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: February 26, 2016.

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2016-05242 Filed: 3/8/2016 8:45 am; Publication Date: 3/9/2016]